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BEFORE THE ARIZONA CORPORATION COMMISSION

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Arizona Corporation Commission

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COMMISSIONERS

KRISTIN K. MAYES, Chairman
GARY PIERCE
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SANDRA D. KENNEDY
BOB STUMP

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AZ CORP COMMISSION
DOCKET CONTROL

IN THE MATTER OF THE FORMAL
COMPLAINT OF ROGER AND DARLENE
CHANTEL,

DOCKET NO. E-01750A-09-0149

COMPLAINANTS,

vs.

MOHAVE ELECTRIC COOPERATIVE, INC.,

RESPONDENT.

PROCEDURAL ORDER

BY THE COMMISSION:

On March 24, 2009, Roger and Darlene Chantel ("Complainants") filed with the Arizona Corporation Commission ("Commission") a Complaint ("Complaint") against Mohave Electric Cooperative, Inc. ("Respondent").

Pursuant to a Procedural Order dated July 28, 2009, a hearing in this matter was set for January 20, 2010.

On November 12, 2009, the Respondent filed its Motion to Compel Inspection of Premises ("Motion") pursuant to Rule 37 of the Arizona Rules of Civil Procedure ("Rules").

In its Motion, the Respondent attached as Exhibit A, a copy of correspondence sent to the Complainants requesting permission to enter the Complainants' property and inspect both the exterior and interior of the structure at issue in this matter (the "Structure"), pursuant to Rule 34 of the Rules. Respondent also requests that a member of Mohave County's Special Services Department be present during the Respondent's inspection.

Attached to the Motion as Exhibit B, is a copy of the Complainants' response to the letter requesting access ("Response Letter"). In the Response Letter, the Complainants objected to the Respondent's access to the interior of the Structure, as "the interior seems to be beyond the scope of

1 relevancy in this case.” Additionally, Complainants state that they do not believe it is appropriate to
2 allow non-parties to participate in any inspection.

3 In the Motion, the Respondent states,

4 The Chantels have contended in both their informal complaint and their formal complaint
5 that they had constructed artwork (the Structure) on their property and that the Structure
6 was designed to protect the Chantels and invitees from Mohave’s transmission lines. By
so alleging, the Chantels have made the nature and use of the Structure a relevant issue
and the Structure is therefore subject to discovery through an inspection.

7 The Respondent is correct that Complainants have placed in issue the nature and use of the
8 entire Structure and it is subject to full inspection under the Rules.

9 Also, the Respondent may have a Mohave County employee accompany the Respondent
10 during the inspection. Because the Respondent disconnected the Complainants’ service at the
11 demand of Mohave County, allowing a Mohave County employee to accompany the Respondent will
12 allow Mohave County to inspect the Structure and assess the reasonableness of its original demand
13 that the line be de-energized. Complainants’ objection in its Response Letter that a non-party should
14 not be allowed to participate in any inspection is overruled, as an inspection of evidence is often
15 undertaken by a non-party, such as an expert witness.

16 Accordingly, the Respondent’s Motion should be granted.

17 IT IS THEREFORE ORDERED that the Respondent’s Motion to Compel Inspection of
18 Premises is hereby granted.

19 IT IS FURTHER ORDERED that the Complainant shall make the Structure and its premises
20 available for inspection, for no more than 30 minutes, within 20 days from the date of this Procedural
21 Order. Respondent may take necessary photographs and/or measurements of the premises.

22 IT IS FURTHER ORDERED that any inspection of the Complainants’ premises shall not
23 include an inspection of the Complainants’ primary residence, nor may the Respondent’s take any
24 photographs of the Complainants’ primary residence.

25 IT IS FURTHER ORDERED that the Respondent may be accompanied by a Mohave County
26 Special Services Department building permit inspector.

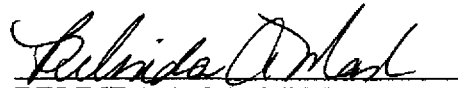
1 IT IS FURTHER ORDERED that the Complainants shall not remove or disturb the current
2 condition of the Structure and shall not remove any items currently in the Structure pending
3 Respondent's inspection.

4 IT IS FURTHER ORDERED that if the Complainants fail to comply with terms of this Order,
5 the Complaint may be dismissed after due process.

6 IT IS FURTHER ORDERED that all parties must comply with Rules 31 and 38 of the Rules
7 of the Arizona Supreme Court and A.R.S. §40-243 with respect to practice of law and admission *pro*
8 *hac vice*.

9 IT IS FURTHER ORDERED that that the Presiding Officer may rescind, alter, amend, or
10 waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
11 hearing.

12 DATED this 25th day of November, 2009.

13
14 
15 BELINDA A. MARTIN
16 ADMINISTRATIVE LAW JUDGE

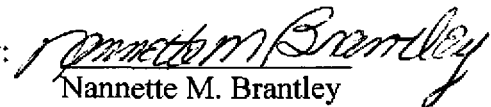
17 Copies of the foregoing mailed
18 this 25th day of November, 2009 to:

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By: 
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